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U.S. Application No. 10/801,222 Examiner CHOW, Art Unit 2645  
Response to March 28, 2006 Office Action

### **REMARKS**

In response to the Office Action dated March 28, 2006, the Assignee respectfully requests reconsideration based on the following remarks. The Assignee respectfully submits that the pending claims already distinguish over the cited document to *Bedingfield*.

Claims 1-21 are pending in this application.

The United States Patent and Trademark Office (the "Office") rejected claims 1-21 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,608,888 to *Bedingfield et al.*

The pending claims, however, are not anticipated. As the following paragraphs explain, the pending claims all recite features that are not taught or suggested by *Bedingfield*. The § 102 (e) rejection, therefore, must be withdrawn.

### **Telephone Interview with Examiner Gauthier**

Examiner Gauthier discussed the pending claims. A telephone interview was held May 23, 2006 between Examiner Gauthier and Scott Zimmerman. Examiner Gauthier agreed that the cited documents fail to teach or suggest the features recited in the pending claims. The independent claims all recite features for a data message that is associated to an originating party and to a recipient. When a communication is received from the originating party, then the data message is communicated to the recipient via an Internet Protocol communications network. Examiner Gauthier said he must conduct another search, yet remarked that he has never seen the claimed invention.

### **Rejections under 35 U.S.C. § 102**

The Office rejects claims 1-21 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,608,888 to *Bedingfield et al.* A claim, however, is anticipated only if each and every element is found in a single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of*

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*California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). *See also* DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8<sup>th</sup> Edition) (hereinafter "M.P.E.P.").

Claims 1-21 are not anticipated. Claims 1-21 already distinguish over U.S. Patent 6,608,888 to Bedingfield *et al.* Independent claim 1, for example, recites a communications service in which a "subscriber" associates a data message to "an originating party and to a recipient." Independent claim 14 similarly recites "allowing a first party to compose a data message and to associate that data message with a second party and with a third party." Independent claims 1 and 14 are reproduced below, and independent claims 20 and 21 recite similar features.

[c01] (Original) A method of providing communications services, comprising the steps of:

- allowing a subscriber to create a data message;
- allowing the subscriber to associate the data message to an originating party and to a recipient;
- receiving a communication from the originating party; and
- communicating the data message to the recipient via an Internet Protocol communications network.

[c14] (Previously Presented) A method of providing communications services, comprising the steps of:

- storing a user interface in memory, the user interface allowing a first party to compose a data message and to associate that data message with a second party and with a third party;
- receiving a communication from the second party; and
- communicating the data message to the third party.

The patent to Bedingfield *et al.* does not anticipate the claims. It's important for Examiner Gauthier to realize that all the independent claims recite three (3) different parties: a subscriber (or first party), an originating party (or second party), and a recipient (or third party).

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The patent to Bedingfield *et al.*, however, fails to teach or suggest such features. Examiner Gauthier is correct — *Bedingfield* describes a “subscriber,” a “sending party,” and a “recipient.” Numerous times, however, *Bedingfield* makes clear that the “subscriber” and the “sending party” are the same entity. The patent to Bedingfield *et al.*, then, fails to disclose all the features recited by the independent claims.

*Bedingfield* provides many examples. “FIG. 2 illustrates an exemplary method for a **sending party such as the messaging subscriber ... to send an anonymous message.**” U.S. Patent 6,608,888 to Bedingfield *et al.* (Aug. 19, 2003) at column 6, lines 30-32 (emphasis added). “**The sending party may be referred to as a subscriber.**” *Id.* at column 6, lines 32-33 (emphasis added). “**The subscriber may desire that all of his/her messages be anonymous messages.**” *Id.* at column 6, lines 44-45 (emphasis added). “**The sending party as a subscriber to a messaging service ... may call an administration number.**” *Id.* at column 7, lines 18-20 (emphasis added). “**The sending party as a subscriber to a messaging service ... may create a message as a reply.**” U.S. Patent 6,608,888 to Bedingfield *et al.* (Aug. 19, 2003) at column 7, lines 29-31 (emphasis added). “**The sending party as a subscriber to a messaging service ... may review a message that has been left for the subscriber.**” *Id.* at column 7, lines 44-46 (emphasis added). *See also id.* at column 9, lines 1-6.

Claims 1-21, then, are not anticipated. No where does *Bedingfield* make any description of three (3) different parties (*e.g.*, subscriber or first party, an originating party or second party, and a recipient or third party), as the independent claims recite. Because the patent to Bedingfield *et al.* is completely silent to the claimed three-party communications service, *Bedingfield* cannot anticipate the pending claims. The § 102 rejection must, therefore, be withdrawn.

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If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 387-6907 or [scott@wzpatents.com](mailto:scott@wzpatents.com).

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Scott P. Zimmerman', with a stylized, cursive script.

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